

# WIPO



PCT/TCO/V/20

ORIGINAL: English

DATE: November 3, 1975

## WORLD INTELLECTUAL PROPERTY ORGANIZATION GENEVA

### PATENT COOPERATION TREATY

#### INTERIM COMMITTEE FOR TECHNICAL COOPERATION

Fifth Session

Geneva, October 29 to November 3, 1975

#### REPORT

##### INTRODUCTION

1. The PCT Interim Committee for Technical Cooperation (hereinafter referred to as "the Interim Committee") held its fifth session in Geneva from October 29 to November 3, 1975.
2. The members of the Interim Committee are those States--42 in number--which have signed or acceded to the PCT and, pursuant to a decision of the Executive Committee of the Paris Union, any other State which pledges a special contribution to the PCT budget. There are two States, Australia and Cuba, which so far have qualified under the latter criterion. The following 22 States were represented: Algeria, Austria, Brazil, Denmark, Egypt, Finland, France, Germany (Federal Republic of), Hungary, Ireland, Ivory Coast, Japan, Luxembourg, Netherlands, Norway, Philippines, Romania, Soviet Union, Sweden, Switzerland, United Kingdom, United States of America. The following 20 States were not represented: Argentina, Australia, Belgium, Cameroon, Canada, Central African Republic, Chad, Cuba, Gabon, Holy See, Iran, Israel, Italy, Madagascar, Malawi, Monaco, Senegal, Syrian Arab Republic, Togo, Yugoslavia.
3. Two intergovernmental organizations, the International Patent Institute (IIB) and the Organization of American States (OAS) were represented by observers.
4. The following seven non-governmental organizations were represented by observers: International Association for the Protection of Industrial Property (AIPPI), Council of European Industrial Federations (CEIF), European Federation of Industrial Property Representatives of Industry (FEMIPPI), International Federation of Patent Agents (FICPI), International Federation of Inventors' Associations (IFIA), Union of Industries of the European Community (UNICE), Union of European Professional Patent Representatives (UNION).
5. The Institution of Electrical Engineers (INSPEC) and the International Patent Documentation Center (INPADOC) were represented by observers.
6. The number of participants was approximately 50. The list of participants appears in the Annex to this report.

OPENING STATEMENTS

7. The session was opened by Mr. K. Pfanner, Deputy Director General of WIPO, who welcomed the participants on behalf of the Director General of WIPO.

PROGRESS OF PCT IMPLEMENTING LEGISLATION IN THE UNITED STATES OF AMERICA

8. The Delegation of the United States of America informed the Interim Committee that the U.S. Senate had previously given its consent to the ratification of the PCT by the United States of America. However, the instrument of ratification had not yet been deposited with the Director General of WIPO, since implementing legislation was required to permit the United States Patent and Trademark Office to operate under the present U.S. patent statute and carry out its duties under the PCT. This implementing legislation had been passed by the U.S. Senate in June 1975. Following this approval by the U.S. Senate, the Courts, Civil Liberties and Administration of Justice Subcommittee of the U.S. House of Representatives had unanimously approved the PCT implementing legislation and reported it to the Committee on the Judiciary of that House. The Committee on the Judiciary had unanimously approved the PCT implementing legislation on October 28, 1975. The Delegation of the United States of America finally said that the PCT implementing legislation would be scheduled for a vote before the U.S. House of Representatives in the near future and it was anticipated that an affirmative vote would be taken by that House and that President Ford would sign the legislation into law within the next few weeks. It was therefore expected that the United States of America would deposit its instrument of ratification of the PCT before the end of 1975.\*

OFFICERS OF THE SESSION

9. The Interim Committee unanimously elected Mr. D. G. Gay (United Kingdom) as Chairman and Mrs. E. Parragh (Hungary) and Mr. A. C. Marmor (United States of America) as Vice-Chairmen.

10. Mr. P. Claus, Technical Counsellor, Industrial Property Division, WIPO, acted as Secretary of the Interim Committee.

AGENDA

11. The Interim Committee adopted the agenda as contained in document PCT/TCO/V/1/Rev. 2.

PCT MINIMUM DOCUMENTATION: NON-PATENT LITERATURE

Implementation of the Minimum List under PCT Rule 34.1(b)(iii)

12. Discussions were based on documents PCT/TCO/V/2 and PCT/TCO/V/13.

13. The Interim Committee approved the updated version of the PCT Minimum List of Non-Patent Literature under PCT Rule 34.1(b)(iii) as contained in Annex A to document PCT/TCO/V/2, subject to some minor amendment in PCT Serial Number 12 (present title to read "Annals of Nuclear Energy").

14. Upon a suggestion made by the Delegation of the United Kingdom, the Interim Committee agreed that the International Bureau should publish the PCT Minimum List of Non-Patent Literature and give it as wide a distribution as possible. The International Bureau stated that the List would be published as a "Post-Conference Document" in the PCT/PCD series.

15. A proposal of the International Bureau to include an abbreviated title for each title in the list of periodicals was discussed. The observer organizations representing interested circles (inventors, patent attorneys, industry) expressed the view that the complete title should be given when citing a non-patent literature item in a search report in order to avoid confusion. However, standard abbreviations of titles as already contained in the list (for instance IEEE) and those generally used should be allowed.

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\* On November 3, 1975, the U.S. House of Representatives approved the PCT implementing legislation by an overwhelming majority.

16. The Interim Committee further noted that the International Bureau, in co-operation with the IIB, would try to keep the PCT Minimum List of Non-Patent Literature as up-to-date as possible, more particularly with regard to changes in titles and publishers and the scope of the technical content of the periodicals.

17. The Interim Committee noted the following declarations on the present state of implementation of the resolution formulated by the Interim Committee at its fourth session, regarding the inclusion of the 169 periodicals of the PCT Minimum List of Non-Patent Literature in the documentation of the prospective International Searching Authorities represented at this session:

- (i) the Offices of the Federal Republic of Germany and of the Soviet Union and the IIB will have subscribed to all 169 periodicals by January 1, 1976;
- (ii) the Office of Austria will have the 169 periodicals at its disposal very soon, and will inform the International Bureau in due course;
- (iii) the Offices of the United Kingdom and of the United States of America have subscribed to all 169 periodicals and received all of them;
- (iv) the Office of Sweden will try to bring about full coverage of all 169 periodicals by January 1, 1977.

The Interim Committee noted the information received from the Office of Japan as set forth in document PCT/TCO/V/13. In this context, it urged all prospective International Searching Authorities which had not yet done so to do their utmost to include the 169 periodicals in their documentation as soon as possible.

Patent Associated Literature - PAL Project of INSPEC

18. Discussions were based on document PCT/TCO/V/3, which contains a progress report on the PAL Project of INSPEC, and proposals of INSPEC for the third year of services, and on document PCT/TCO/V/16, which contains a report by the IIB on the quantitative analysis of the seven months' full-text material received under the PAL Service from INSPEC.

19. The Representative of INSPEC recalled that during the first year of PAL Services (March 1, 1974 to February 28, 1975), INSPEC had implemented all the basic features of the PAL System including journal and subject coverage, selection criteria and classification, in accordance with its contractual obligations, and that, also in accordance with those obligations, an appropriate refund (equivalent to a shortfall of approximately 1,500 selected articles on a total of 10,000 forecast) had been made to the subscribers. It was further outlined that the new products which had been announced for the second year of services (see document PCT/TCO/IV/18, paragraph 23), had met with almost no response at all. Only the Soviet Union and the United States of America had recently expressed interest in the PAL Magnetic Tape Service. Informal contacts arranged by the International Bureau with the present subscribers had revealed a rather strong interest in consolidating the services under the present subject coverage. An alternative Composite Service, as distinct from the Full-Text Copy Service presently operated, had been developed. Under the Composite Service, the subscriber would receive the same materials as under the Full-Text Copy Service, except for the periodicals appearing on the PCT Minimum List of Non-Patent Literature and forming part of the list of INSPEC Journals, for which only an information sheet would be provided (for details, see paragraph 7 of document PCT/TCO/V/3).

20. The Representative of INSPEC further stated that, after careful consideration of the pricing structure of their services, they had found that the subscription prices in the third year of operations could be further reduced; they were now as follows:

Full Text Copy Service	US dollars 45,000
Composite Service	US dollars 38,000

[specifications of both Services are given in the first subparagraph of paragraph 7 of document PCT/TCO/V/3; the prices are conditional on a total number of at least 4 subscribers].

The Representative of INSPEC explained that this price represented a total increase of only 27 per cent during the three years of the existence of the Service. Finally he expressed the hope that INSPEC could work with the help of the Interim Committee towards the further development of the PAL Project as a means of harmonizing the minimum documentation under the PCT.

21. The International Bureau stressed the great usefulness of the PAL Project in economizing time and expense in searching and examination procedures and in the harmonization of the basis for searching non-patent literature under the PCT. It was felt that, in the long term, the PAL Project was the only viable solution for rational access to non-patent literature by small Patent Offices and patent information centers in developing countries. The International Bureau therefore urged that prospective international Searching Authorities which so far had not subscribed to PAL services should, in a spirit of international cooperation, consider becoming subscribers.
22. The Delegation of the United States of America declared that it was fully satisfied with the PAL Services delivered by INSPEC so far, and that it would continue its subscription for at least another year, in order to allow a full evaluation study to be performed.
23. The Delegation of the Soviet Union stated that, after an examination of the various products offered by INSPEC during the previous year, it had opted for the magnetic tape service. It therefore regretted that this service was apparently no longer available, but it hoped that this question might be reconsidered by INSPEC.
24. The Delegation of Japan said that it was satisfied with the present PAL Services. With regard to the third year of operations, no definite views could be expressed because of financial problems. It would, however, communicate its decision to the International Bureau and INSPEC in the near future.
25. The Representative of the IIB said that the IIB had always had an operational system for selecting and collecting non-patent literature (NPL) for its search files. Under that system, a total number of 400 periodicals in the field covered by the PAL Service were regularly scanned by the examiners, resulting in more than 15,000 selected items of NPL per year. When, in late 1974, a decision to subscribe for one year to the PAL system was made, this was primarily in order to compare the PAL system with the current in-house selecting and collecting system. A first quantitative study of seven months of selected journal articles received from INSPEC had produced the results given in document PCT/TCO/V/16. He emphasized that it was too early to draw any final conclusions, but indicated that the selections made by INSPEC in the chemical field had not been used by the IIB for insertion in their search files because it was felt that the IIB examiner had adequate access to chemical NPL via "Chemical Abstracts." He also said that in this seven-month sample, only selections from 320 journals had been made. The results of the comparative and quantitative study of the material received during the one-year subscription would only be known in the middle of 1976. Consequently, no commitment for the future could be made at the present time.
26. The Representative of INSPEC stressed that in 1973 a trial test had been made in which several prospective International Searching Authorities had participated and that this test had proved to be conclusive with regard to both selection criteria and allotment of IPC symbols. INSPEC, in designing its PAL Service, had closely followed the desires of the prospective International Searching Authorities.
27. The Delegation of Sweden said that in the previous year the Interim Committee had not taken a decision whether subscription to the PAL Full-Text Copy Service could replace the need to subscribe to all or part of the periodicals in the PCT Minimum List of Non-Patent Literature, and that in its view it would be useful to decide this question now.
28. After a lengthy discussion, the Interim Committee, referring to the decision taken at its fourth session (see paragraph 12 of document PCT/TCO/IV/18), and stressing the usefulness of the PAL Project in providing a harmonized form of access to non-patent literature, unanimously agreed that, following the introduction of the PAL 1976/1977 Service--for which INSPEC guaranteed to scan a specified number of periodicals of the PCT Minimum List of Non-Patent Literature in providing the PAL Service--prospective International Searching Authorities which were subscribers to the PAL Full-Text Copy Service of INSPEC were not obliged to subscribe to those periodicals of the PCT Minimum List covered by that Service as long as they remained subscribers to that Service, and as long as those periodicals were in fact covered by that Service.
29. The agreement referred to in the preceding paragraph was endorsed by each of the prospective International Searching Authorities present (Austria, Germany (Federal Republic of), Japan, Soviet Union, Sweden, United States of America, International Patent Institute).

## PCT MINIMUM DOCUMENTATION : PATENT DOCUMENTS

Sorted Collections of Patent Documents under PCT Rule 34.1(c)(vi)

30. Discussions were based on document PCT/TCO/V/4.

31. The Interim Committee noted with gratitude the offers of sorted collections of patent documents of Australia, Austria and Canada, as summarized in Annex A to document PCT/TCO/V/4. It was felt, however, that, before the conditions for inclusion of these documents in the PCT minimum documentation under PCT Rule 34.1(c)(vi) could be fulfilled, a listing or inventory of the said patent documents was needed. It was also underlined that the question of the earliest publication date of Australian accepted and lapsed specifications in the sorted collection should be clarified.

32. The Delegation of Austria explained that the sorted collections of its patent documents could be obtained in hard-copy form or in the form of 16-mm microfilm. If an International Searching Authority wished to receive both the hard-copy collection and the microfilm, a minimal charge would be made.

33. The International Bureau was in particular entrusted with the following tasks:

(i) obtaining from the Offices of Australia, Austria and Canada listings or inventories of the patent documents contained in the sorted sets in order to facilitate the decision of the prospective International Searching Authorities on whether and to what extent they needed the sorted sets;

(ii) establishing the final list of the prospective International Searching Authorities which needed a sorted set of the above-mentioned documents, indicating also in what form the sorted set was desired;

(iii) communicating to the Offices of Australia, Austria and Canada the final list established under (ii), with a request to place the sorted sets at the disposal of each of the prospective International Searching Authorities so requesting;

(iv) reporting to the Interim Committee at its next session on whether and to what extent the conditions of Rule 34.1(c)(vi) had been fulfilled.

State of Completeness of the Search Files in Respect of the National Patent Documents referred to in PCT Rule 34

34. Discussions were based on document PCT/TCO/V/5.

35. The Interim Committee noted the following statements made regarding the summary of existing "gaps" in the search files as set forth in paragraph 16 of document PCT/TCO/V/5:

(i) the Delegation of Japan said that although no spare copies of its patent documents were available, it was willing to enter into bilateral negotiations with any prospective International Searching Authority, in order to provide it with such copies at reasonable cost;

(ii) the Delegation of France stated that, upon receipt of an official request from Japan, it was willing to engage in bilateral negotiations in order to provide Japan, on favorable terms, with copies of the approximately 3,500 missing French patent documents;

(iii) the Representative of the IIB explained that the IIB was already in possession of the 120,000 patent documents of Switzerland reported to be missing; they were, however, not yet included in the systematic documentation (search files);

(iv) the Delegation of the United Kingdom said that it was ready to provide Austria with the approximately 30,000 British patent documents which were missing, in photocopy form and at cost.

36. The Delegation of the Soviet Union expressed the hope that the International Bureau would be able to assist all prospective International Searching Authorities in locating and filling the minor gaps which existed in their minimum documentation.

37. The Interim Committee agreed that the problem of the gaps existing in Japanese and Soviet Union patent documents could only be considered in conjunction with the question of availability of English language abstracts for those documents, since, according to Rule 34.1(e), only those documents for which such abstracts

were generally available formed part of the minimum documentation for International Searching Authorities for which neither Russian nor Japanese was an official language. It therefore advised the International Bureau to prepare for consideration at its next session a progress report on the state of completeness of the search files, which should have the following structure:

(i) Part I should deal with the availability of Soviet Union and Japanese patent documents (with reference to PCT Rule 34.1(e));

(ii) Part II should deal with the availability of "national patent documents" (excluding Soviet Union and Japanese patent documents) and should be subdivided into:

- (a) a part dealing with documents not available at the Office concerned ("gaps");
- (b) a part dealing with documents available at the Office, but not forming part of its systematic documentation (search files).

38. The Interim Committee finally urged all prospective International Searching Authorities to try to complete their minimum documentation as far as possible by means of bilateral arrangements among themselves and/or with other members of the Interim Committee.

#### Availability of English Language Abstracts of the Patent Documents of Japan and the Soviet Union

39. The International Bureau said that the survey made on the availability of English language abstracts of Japanese and Soviet Union patent documents, the results of which were summarized in document PCT/TCO/V/6, had not been very encouraging. It had proved very difficult in particular to establish what abstracts were available at the present time, and to estimate what would be generally available at the time of entry into force of the PCT.

40. The Delegation of Japan said that, in the technical information provided in reply to the survey conducted by the International Bureau (Annex C to document PCT/TCO/V/6 pages 1 and 2), the indication "number of issues" should read "number of abstracts." He further said that the Japanese Patent Office was making efforts to obtain the necessary funds for preparing English language abstracts of its published patent documents, but so far without success.

41. The Delegation of the Soviet Union said that it had already been established earlier that Derwent Publications Ltd. had, during the period from 1961 to 1972, published approximately 150,000 English language abstracts of Soviet Union patent documents (see document PCT/TCO/SS/III/4), and that during the same period approximately the same amount of patent documents had been published by its Office. It was therefore concluded that the Derwent coverage of Soviet Union patent documents was close to 100 per cent. For the study which the Soviet Union was presently undertaking in order to estimate the cost of preparing English language abstracts itself, the Delegation of the Soviet Union asked whether there was any interest on the part of the prospective International Searching Authorities in obtaining such abstracts and what price they were willing to pay. The International Bureau stated its readiness to communicate the request to the other prospective International Searching Authorities.

42. The Interim Committee discussed at length how the expression "generally available" contained in PCT Rule 34.1(e) should be interpreted. The International Bureau said that, in its opinion, abstracts could be considered "generally available" not only when they were made available free of charge, but also when they were provided at reasonable cost. It was agreed, however, that one could not consider abstracts to be "generally available" if the conditions for obtaining them were unreasonable, for instance if their price was excessively high.

43. Upon a proposal by the Delegation of Switzerland, the Interim Committee agreed on the following procedure to be pursued by the International Bureau for the continuation of work on this difficult question:

(i) a study should be made which would assist in clarifying the notion "generally available" (in PCT Rule 34.1(e));

(ii) an inventory should be made with the help of the Offices of Japan and the Soviet Union in order to establish:

- (a) for which Japanese and Soviet Union patent documents English language abstracts had been prepared so far and whether those abstracts were generally available;
- (b) which Japanese and Soviet Union patent documents were currently being abstracted in English and would be generally available shortly;

(iii) the assistance of several Offices having the necessary linguistic capabilities should be secured in order to make an analysis of the quality of the abstracts referred to in (ii) (b).

#### SEARCHING UNDER THE PCT

##### Survey of Searching Practices

44. The Interim Committee noted the survey prepared by the International Bureau on the current searching practices of the prospective International Searching Authorities, expressed its gratitude to the International Bureau for the valuable information collected and decided that the results of the comparative analysis made in the survey should be taken into account in the further work concerning the "Guidelines for Searches under the PCT" (Item 9 of the agenda).

##### Test by the IIB on the Practical Aspects of Using the Draft International Search Report (Form PCT/ISA/210)

45. Discussions were based on document PCT/TCO/V/8.

46. The Representative of the IIB explained that the IIB had undertaken a test of the draft International Search Report Form on the basis of three search results pertaining to patent applications which had now been published, chosen in three main fields of technology, namely, the chemical, physical and other technical fields. He reported that no major problems had been encountered in completing the search report forms. He drew the attention of the Interim Committee to his comments given on page 4 of document PCT/TCO/V/8, stating at the same time that they would seem to be of importance for the PCT Interim Advisory Committee for Administrative Questions (PCT/AAQ) in its work on the forms and the Administrative Instructions.

47. The Interim Committee expressed its gratitude to the IIB for having performed this test and noted the various comments made by it. The Interim Committee un-animously recommended that the results of the tests made by the IIB on the draft International Search Report Form and the comments on those results should be taken into account by the PCT/AAQ in its further work on the forms and the Administrative Instructions.

##### Treatment of Patent Families

48. Discussions were based on document PCT/TCO/V/9.

49. The Delegation of Japan said that, with regard to the question of which member or members of a patent family should be included in the search files and which should be cited, the prospective International Searching Authorities should be allowed to continue their present practice. As far as Japan was concerned, the solution proposed in paragraph 5(iii) of document PCT/TCO/V/9 was preferred.

50. The Delegation of Switzerland, supported by the Representative of FEMIP, stated that one should distinguish between past and current documents. For backlog documentation, the fact that patent families had been traced only to a very limited extent should be acknowledged. For this part of the documentation, only the citation of the document in the search file should be required. For current patent documents, for which ample patent family information was available, for instance through the Patent Family Service (PFS) of INPADOC, the following was proposed:

(i) the patent document to be included in the search file should be neither a "first filing" ("premier dépôt"), nor an examined patent document, but for instance, a "première publication" (France), an "Offenlegungsschrift" (Federal Republic of Germany) or a Swiss patent document; this document could be accompanied in the search file, if so desired, by an additional member of the family in the language most suitable to the International Searching Authority concerned;

(ii) in applying the principles under (i), the International Searching Authority should guarantee access to the other members of the patent family, either through the search files or by other suitable means;

(iii) in the search report, the most pertinent (with regard to date and technical content) member of the patent family should be cited.

51. The Representative of the IIB said that he largely agreed with the proposals under (ii) and (iii) made by the Delegation of Switzerland. He pointed out that within five years almost 80 per cent of the documents proposed by Switzerland for inclusion in the search files would be PCT pamphlets or patent applications published by the European Patent Office. Nevertheless, the International Searching Authorities should be free to exercise some discretion when building up search files on the basis of newly issued patent documents.

52. The Delegation of the Netherlands, supported by the Delegation of Sweden, said that, for practical reasons, it could not accept the first and third principles formulated by Switzerland. It pointed out that adhering to the first principle would result in a drastic reduction in United States patents in the search files. If a principle had to be found for the search files, it proposed the "first-document-to-arrive" principle. Adhesion to the third principle of compulsory citation of the most pertinent document would make the search very expensive, since this would call for comparison of all family members. It therefore tended to agree with the Delegation of Japan, and proposed that International Searching Authorities should be allowed the utmost freedom in this respect and that they should have the possibility of continuing their present practice.

53. The Delegation of the United Kingdom agreed that for the current build-up of the files the "first-document-to-arrive" principle should be adhered to. If backlog files were to be updated and patent families assembled in order to eliminate duplicates, then the family member with the broadest disclosure should be chosen for inclusion in the rearranged search files.

54. The Delegation of Austria doubted whether any conclusion beyond the principles laid down at the fourth Interim Committee session in the three disclaimers to PCT Rule 36.1(ii), PCT Article 15(4) and PCT Rule 43.5(a) could be reached.

55. The Delegation of the United States of America stated that the International Searching Authority should have the option of including any member of the patent family in its search files. The "first-document-to-arrive" principle was generally felt to be adequate, provided that the International Searching Authority was allowed to replace this document later with another member of the patent family. It was felt that some general rules should be elaborated and adhered to, in order to allow International Searching Authorities to move towards more standardized search tools, which would be beneficial for achieving comparable search results. It added that, with respect to citations, the International Searching Authorities should also be allowed to proceed at their own discretion.

56. The Delegations of the Federal Republic of Germany and the Soviet Union agreed with the statements made by the Delegations of the Netherlands and the United States of America, stating in particular that they were in favor of leaving the method of inclusion and citation of family members to the discretion of the International Searching Authorities. Since it would be difficult to formulate generally acceptable principles, at least at the present stage, the Delegation of the Soviet Union proposed postponement of further discussion until the next session of the Interim Committee.

57. In closing the discussion on this item, the Chairman concluded as follows:

(i) the question of treatment of patent families would be discussed again at the next Interim Committee session; no preparatory document would be issued by the International Bureau;

(ii) the question of patent families was only relevant to newly issuing patent documents to be included in the systematic documentation, since for past documents the existing situation would have to be accepted;

(iii) the problems connected with the building up of search files and the citation of patent family members in search reports should be kept separate;

(iv) prospective International Searching Authorities had expressed a clear preference for flexible solutions and discretionary measures.



## GUIDELINES FOR THE PREPARATION OF ABSTRACTS

58. Discussions were based on documents PCT/TCO/V/10 and PCT/TCO/V/15.

59. The Interim Committee noted with approval the "General Guidelines for the Preparation of Abstracts of Patent Documents," as adopted by the Plenary Committee of ICIREPAT at its seventh ordinary session. The following comments were made (references are to paragraphs of the Guidelines):

- (i) paragraph 8, 6th line, "patent" should be replaced by "patent document";
- (ii) paragraph 12(a), 4th line, "of the" should be replaced by "in," and 5th line, "value" should be replaced by "valve" (not relevant for French text).

60. The Interim Committee noted also the comments made by Working Party II of the Interim Committee of the EPO on the General Guidelines, and was of the opinion that only comment 1(c) regarding the French text was relevant. The Delegations of France and Switzerland undertook to clarify the question of how the word "disclosure" in paragraphs 6 to 8 of the General Guidelines should be translated into French and to inform the International Bureau as soon as possible about their suggestions in this respect.

## COMPATIBILITY AND CONSISTENCY OF THE SOLUTIONS ENVISAGED IN THE FRAMEWORK OF THE PCT AND THE EUROPEAN PATENT ORGANISATION

61. Discussions were based on document PCT/TCO/V/11.

62. In a general discussion, the Interim Committee expressed its appreciation to the International Bureau for the interesting information assembled in the above-mentioned document.

63. Following a detailed discussion dealing, in particular, with the relationship of the requirements for unity of invention, as contained in PCT Rule 13 and in Rule 30 of the European Patent Convention, the Interim Committee agreed that paragraph 14 of the document under consideration would have to be redrafted as follows:

"14. The applicant filing an international application under the PCT and designating the Contracting States of the European Patent Convention for purposes of a patent procedure before the European Patent Office may, in pursuing his international application in the "national phase" before the European Patent Office and the Patent Offices of other Contracting States of the PCT, be confronted with different standards of unity of invention. While his application, if it contained all the categories permissible under EPC Rule 30(c), would comply with the requirement of unity of invention as contained in that provision, it would not comply with the minimum requirements as stated in Rule 13.2 of the PCT. In such a case the applicant in the national phase with designated Offices of Contracting States of the PCT outside the European Patent Convention could be confronted with a more stringent requirement of unity of invention based on the stricter minimum requirements of Rule 13.2 of the PCT. In other words, there are cases where, for one and the same application, unity of invention may exist under the EPC but not under the PCT, despite the fact that the same basic principle governing unity of invention (EPC Article 82 and PCT Rule 13.1) is applicable under both Treaties."

64. With respect to paragraph 29, it was agreed that the word "exceptionally" in line 6 should be deleted.

65. In conclusion, the Interim Committee stated that, while the survey undertaken in the document under consideration was of considerable usefulness, since it provided a first comparative analysis of the relevant provisions of the Patent Cooperation Treaty and the Regulations thereunder and of the European Patent Convention and the Regulations thereunder, as well as of the parallel activities of the Interim Committees set up in the framework of the PCT and the European Patent Organisation, the study would appear to have been completed and did not seem to require any further updating for the time being. The Interim Committee decided therefore that this item would not be maintained on its program.

## GUIDELINES FOR SEARCHES UNDER THE PCT

66. Discussions were based on documents PCT/TCO/V/12, 14 and 18.

67. In introducing document PCT/TCO/V/12, the International Bureau said that the references to the EPO Guidelines in paragraphs 9, 10, 11, 12 and 13 of the document should be to pages 6, 16, 19, 28 and 33, respectively, instead of the page numbers given in those paragraphs.

68. The Delegations of the Netherlands, the United Kingdom and the United States of America declared that they could not agree with paragraph 9 of document PCT/TCO/V/12. In their view, under the PCT also searchers would be called upon under certain circumstances to form provisional opinions for the purpose of assessing novelty and inventive step. The Delegation of the Netherlands added that it did not agree with paragraph 11 either, since in its opinion this would also be possible under the PCT in view of the decision taken the previous year to the effect that it was not necessary to cite all equally relevant documents.

69. The Interim Committee decided not to discuss the draft Guidelines for Searches under the PCT in detail during the current session. It noted with great appreciation the first outline for such guidelines prepared by the United States Patent and Trademark Office on the basis of the "Draft Guidelines for the Searches to be carried out under the European Patent Convention" (document PCT/TCO/V/14), as well as the comments received from the Soviet Union (document PCT/TCO/V/18).

70. For future work on this matter and for the guidance of the International Bureau, the following principles were decided upon by the Interim Committee.

(i) since the EPO Draft Guidelines were not complete yet--chapters IX and X were still missing--the International Bureau should, upon receipt of the draft text of these chapters, make them available to the members of the Interim Committee, asking them and in particular the prospective International Searching Authorities outside the EPO for their observations, if any;

(ii) the Delegation of the Soviet Union was asked, and it agreed, to review the general comments it had made in document PCT/TCO/V/18 in the light of the proposal presented by the United States Patent and Trademark Office in document PCT/TCO/V/14, and to present observations limited to the points on which its views differed from the proposals of the United States Patent and Trademark Office;

(iii) the Delegation of Japan was asked, and it agreed, to present comments in writing and in a form similar to that suggested under (ii) on the version of the Guidelines proposed in document PCT/TCO/V/14;

(iv) comments from the international organizations representing interested circles would also be welcomed;

(v) on the basis of document PCT/TCO/V/14, the final Guidelines to be established in the framework of the EPO in 1976 and the comments received, the International Bureau should prepare, with the help of consultants if necessary, a draft of "Guidelines for Searches under the PCT" for discussion at the next session of the Interim Committee.

## PROGRAM OF THE INTERIM COMMITTEE FOR 1976

71. It was decided that, in view of the program which had been adopted earlier for the work of the Interim Committee and in the light of the work in progress or already completed, the program of the Interim Committee for 1976 should include the following questions:

(i) continuation of the work concerning the implementation of the Minimum List of Non-Patent Literature under PCT Rule 34.1(b)(iii) by the prospective International Searching Authorities;

(ii) continuation of the work on the INSPEC Patent Associated Literature (PAL) project;

(iii) continuation of the work on sorted collections of patent documents under PCT Rule 34.1(c)(vi);

(iv) search for solutions to establish present coverage and to achieve complete future coverage of English language abstracts of patent documents of Japan and the Soviet Union;

(v) continuation of the work on Guidelines for Searches, taking into account the results of the discussions of the Interim Committee;

(vi) starting of the work on Guidelines for International Preliminary Examination;

(vii) continuation of the work on the state of completeness of the search files of the prospective PCT Authorities with respect to the national patent documents referred to in PCT Rule 34;

(viii) survey of PCT minimum documentation countries to ascertain the extent to which the publication date on their patent documents corresponds to the actual publication date.

72. This report was unanimously adopted by the Interim Committee at its closing meeting on November 3, 1975.

[Annex follows]

LISTE DES PARTICIPANTS/  
LIST OF PARTICIPANTS

I. ETATS/STATES

ALGERIE/ALGERIA

Mrs. G. SELLALI  
Conseiller  
Mission permanente de la République Algérienne  
Genève

ALLEMAGNE (REPUBLIQUE FEDERALE D')/GERMANY (FEDERAL REPUBLIC OF)

Mr. U. C. HALLMANN  
Regierungsdirektor  
German Patent Office  
Munich

Mr. W. MASSALSKI  
Oberregierungsrat  
German Patent Office  
Berlin Branch

AUTRICHE/AUSTRIA

Mr. G. GALL  
Head of Division  
Federal Ministry for Trade, Commerce and Industry  
Section for Industrial Property  
Vienna

BRESIL/BRAZIL

Mr. A. G. De ALENCAR  
Counsellor  
Permanent Delegation of Brazil  
Geneva

COTE D'IVOIRE/IVORY COAST

Mrs. L. M-L. BOA  
Deuxième Secrétaire  
Représentation permanente de la République de Côte d'Ivoire  
Genève

DANEMARK/DENMARK

Mr. J. J. P. IRGENS  
Head of Section  
Ministry of Commerce  
Copenhagen

Mr. O. P. CALLESEN  
Deputy Head of Section  
Danish Patent Office  
Copenhagen

EGYPTE (REPUBLIQUE ARABE D')/EGYPT (ARAB REPUBLIC OF)

M. S. A. ABOU-ALI  
Premier Secrétaire  
Mission permanente de la République Arabe d'Egypte  
Genève

ETATS-UNIS D'AMERIQUE/UNITED STATES OF AMERICA

Mr. A. C. MARMOR  
Administrator for Documentation  
United States Patent and Trademark Office  
Washington, D.C.

Mr. L. O. MAASSEL  
Patent Procedure Specialist  
United States Patent and Trademark Office  
Washington, D.C.

Miss M. E. TUROWSKI  
Management Analyst  
United States Patent and Trademark Office  
Washington, D.C.

FINLANDE/FINLAND

Mr. P. SALMI  
Head of Section  
Patent and Registration Board  
Helsinki

Mr. E. FRIMAN  
Advisory Engineer  
Patent and Registration Board  
Helsinki

FRANCE

M. P. GUERIN  
Attaché de direction  
Institut national de la propriété industrielle  
Paris

HONGRIE/HUNGARY

Mrs. E. PARRAGH  
Deputy Head of Section  
National Office of Inventions  
Budapest

IRLANDE/IRELAND

Mr. P. SLAVIN  
Principal Examiner  
Patents Office  
Dublin

JAPON/JAPAN

Mr. T. SHIROSHITA  
Director General  
Department of Appeals  
Patent Office  
Tokyo

Mr. T. YOSHIDA  
Direktor der Patentabteilung (JETRO)  
Düsseldorf  
Germany (Federal Republic of)

LUXEMBOURG

Mr. F. SCHLESSER  
Adjoint au Chef du Service de la propriété industrielle  
Luxembourg

NORVEGE/NORWAY

Mr. O. OS  
Overingeniør  
Norwegian Patent Office  
Oslo

PAYS-BAS/NETHERLANDS

Mr. J. Dekker  
Vice President  
Patent Office  
Rijswijk (Z.H.)

PHILIPPINES

Mr. E. BAUTISTA  
Assistant Head  
Division of Research and Law Reform  
University of the Philippines Law Center  
Quezon City

ROUMANIE/ROMANIA

Mr. V. TUDOR  
Conseiller  
Mission permanente de la République socialiste de Roumanie  
Genève

ROYAUME-UNI/UNITED KINGDOM

Mr. D. G. GAY (Head of Delegation for TCO)  
Superintending Examiner  
The Patent Office  
London

Mr. A. F. C. MILLER (Head of Delegation for AAQ and TAS)  
Principal Examiner  
The Patent Office  
London

Mr. R. W. HEININK  
Higher Executive Officer  
The Patent Office  
London

SUEDE/SWEDEN

Mr. S. LEWIN  
Deputy Director General  
Royal Patent and Registration Office  
Stockholm

Mrs. B. SANDBERG  
Legal Adviser  
Royal Patent and Registration Office  
Stockholm

Mr. L. TÖRNROTH  
Primary Examiner  
Royal Patent and Registration Office  
Stockholm

SUISSE/SWITZERLAND

- M. J.-L. COMTE  
Directeur adjoint  
Bureau fédéral de la propriété intellectuelle  
Berne
- M. R. KÄMPF  
Chef de Section  
Bureau fédéral de la propriété intellectuelle  
Berne
- M. M. LEUTHOLD  
Chef de Section  
Bureau fédéral de la propriété intellectuelle  
Berne
- M. J. MIRIMANOFF-CHILIKINE  
Juriste  
Bureau fédéral de la propriété intellectuelle  
Berne

UNION SOVIETIQUE/SOVIET UNION

- Mr. L. KOMAROV  
Deputy Chairman  
State Committee for Inventions and Discoveries  
of the USSR Council of Ministers  
Moscow
- Mr. E. BURYAK  
Head, International Patent Cooperation Division  
All-Union Research Institute of State Patent  
Examination  
Moscow

II. ORGANISATIONS INTERGOUVERNEMENTALES/INTERGOVERNMENTAL ORGANIZATIONS

INSTITUT INTERNATIONAL DES BREVETS (IIB)/INTERNATIONAL PATENT INSTITUTE

- Mr. J. A. H. Van VOORTHUIZEN  
Deputy Technical Director  
Rijswijk (Z.H.)
- M. A. VANDECASTEELE  
Conseiller au Service Technique  
Rijswijk (Z.H.)

ORGANISATION DES ETATS AMERICAINS (OEA)/ORGANIZATION OF AMERICAN STATES

- Mr. G. J. SCHAMIS  
Director  
Representative of OEA in Europe  
Geneva

III. ORGANISATIONS NON-GOUVERNEMENTALES/NON-GOVERNMENTAL ORGANIZATIONS

ASSOCIATION INTERNATIONALE POUR LA PROTECTION DE LA PROPRIETE INDUSTRIELLE (AIPPI)/  
INTERNATIONAL ASSOCIATION FOR THE PROTECTION OF INDUSTRIAL PROPERTY (IAPIP)

Dr. M. MATHEZ  
Directeur  
F. Hoffmann-La Roche & Co. Ltd.  
Basle

CONSEIL DES FEDERATIONS INDUSTRIELLES D'EUROPE/COUNCIL OF EUROPEAN INDUSTRIAL  
FEDERATIONS (CEIF)

Dr. R. KOCKLÄUNER  
Hoechst AG Werk Albert  
Wiesbaden-Biebrich

FEDERATION EUROPEENNE DES MANDATAIRES DE L'INDUSTRIE EN PROPRIETE INDUSTRIELLE (FEMIFI)

Dr. F. A. JENNY  
Patent Abteilung  
Ciba-Geigy AG  
Basle

Mr. B. DOUSSE  
Battelle Memorial Institute  
Geneva

FEDERATION INTERNATIONALE DES INGENIEURS-CONSEILS EN PROPRIETE INDUSTRIELLE (FICPI)/  
INTERNATIONAL FEDERATION OF PATENT AGENTS

Dr. H. BRÜHWILER  
Zurich

Mr. G. E. KIRKER  
Conseil en propriété industrielle  
Genève

FEDERATION INTERNATIONALE DES ASSOCIATIONS D'INVENTEURS/INTERNATIONAL FEDERATION  
OF INVENTORS ASSOCIATIONS (IFIA)

Mr. S.-E. ANGERT  
Stockholm

Mr. P. FELDMANN  
Opsikon-Glattbrugg  
Switzerland.

UNION DES INDUSTRIES DE LA COMMUNAUTE EUROPEENNE (UNICE)  
UNION OF INDUSTRIES OF THE EUROPEAN COMMUNITY

Mr. M. G. E. MEUNIER  
Chef du Service des Brevets  
ACEC  
Charleroi

UNION DES MANDATAIRES AGREES EUROPEENS EN BREVETS/  
UNION OF EUROPEAN PROFESSIONAL PATENT REPRESENTATIVES (UNION)

Mr. G. E. KIRKER  
Patentanwalt  
Geneva



IV. ORGANISATIONS OBSERVATEURS/OBSERVER ORGANIZATIONS

CENTRE INTERNATIONAL DE DOCUMENTATION EN MATIERE DE BREVETS/INTERNATIONAL  
PATENT DOCUMENTATION CENTER (INPADOC)

Mr. G. QUARDA  
Deputy Technical Director  
Vienna

THE INSTITUTION OF ELECTRICAL ENGINEERS (INSPEC)

Mr. D. BARLOW  
Director  
London

Mr. R. B. COX  
Manager  
Product Development  
Hitchin,  
United Kingdom

V. ORGANISATION MONDIALE DE LA PROPRIETE INTELLECTUELLE (OMPI)/WORLD  
INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

Mr. K. PFANNER, Vice-Directeur général/Deputy Director General

Mr. P. CLAUS, Conseiller technique/Technical Counsellor, Chef de Section/Head of  
Section, Division de la Propriété industrielle/Industrial Property  
Division

Mr. J. FRANKLIN, Conseiller/Counsellor, Chef de la Section PCT/Head, PCT Section,  
Division de la Propriété industrielle/Industrial Property Division

Mr. N. SCHERRER, Conseiller/Counsellor, Section PCT/PCT Section, Division de la  
Propriété industrielle/Industrial Property Division

Mr. Y. GYRDYMOV, Assistant technique/Technical Officer, Section PCT/PCT Section,  
Division de la Propriété industrielle/Industrial Property Division

Mr. B. BARTELS, Consultant, Section PCT/PCT Section, Division de la Propriété  
industrielle/Industrial Property Division

Mr. T. OGIUE, Consultant, Section PCT/PCT Section, Division de la Propriété  
industrielle/Industrial Property Division

Mr. J. SHEEHAN, Consultant, Division de la Propriété industrielle/Industrial  
Property Division